



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

1100 Commerce Street  
Dallas, TX 75242

501.03-00

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

**Date:** October 28, 2009

Number: **201120037**  
Release Date: 5/20/2011

LEGEND

ORG = Organization name

XX = Date Address = address

**Person to Contact:**

**Badge Number:**

**Contact Telephone Number:**

**Contact Address:**

**Employer Identification Number:**

**Deadline to Petition Tax Court:**

**ORG  
ADDRESS**

**CERTIFIED MAIL**

Dear \_\_\_\_\_ :

This is a final notice of adverse determination that your exempt status under section 501(c) (3) of the Internal Revenue Code is revoked. Recognition of your exemption under Internal Revenue Code section 501(c)(3) is revoked to January 1, 20XX for the following reason(s):

You have failed to produce documents to establish that you are operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3), and that no part of your net earnings inure to the benefit of private shareholders or individuals. Also, you have failed to keep adequate books and records as required by IRC section 6001 and the regulations there under. In our letters dated July 15, 20XX and September 25, 20XX, we requested information necessary to conduct an examination of your Form 990-PF for the year ended December 31, 20XX. We have not received the requested information.

Section 1.6033-2(h)(2) of the Income tax Regulations provides, in part, that every organization which is exempt from tax, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status. You have not provided the requested information.

You fail to meet the operational requirements for continued exemption under IRC 501(c)(3). You have not provided requested information. We hereby revoke your organization's exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code, effective January 1, 20XX.

Contributions to your organization are no longer deductible effective January 1, 20XX.

Since your exempt status has been revoked, you are required to file Form 1120, U.S. Corporation Income Tax Return, for all years beginning on or after January 1, 20XX.

Since your private foundation status has not been terminated, you continue to be required to file Form 990-PF annually.

Income tax returns for subsequent years are to be filed with the appropriate Service Center identified in the instructions for those returns.

It is further determined that your failure to file a written appeal constitutes a failure to exhaust your available administrative remedies. However, if you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia before the (ninety-first) 91st day after the date that this determination was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. To secure a petition form, write to the following address:

Please understand that filing a petition for a declaratory judgment under IRC section 7428 will not delay the processing of subsequent income tax returns and assessment of any taxes due.

The last day for filing a petition for declaratory judgment is January 28, 20XX.

You also have the right to contact the Office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778, and ask for the Taxpayer Advocate assistance or you can contact the Advocate from the site where this issue was determined by writing to:

Taxpayer Advocate assistance cannot be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

This letter should be kept within your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely,

Sunita Lough  
Director, EO Examinations

Enclosures:  
Publication 892



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service  
TE/GE:EO:Examinations  
701 B Street, Suite 902  
San Diego, CA 92101

March 13, 2009

ORG  
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Sunita B. Lough  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

Form <b>886-A</b> (Rev. January 19XX)	<b>EXPLANATION OF ITEMS</b>		Schedule number or exhibit
Name of Taxpayer	Tax Identification Number	Year/Period ended	
ORG	EIN	December 31, 20XX	

**LEGEND**

ORG = Organization name      XX = Date      Address = address      Executive Director = executive director

**ISSUE**

Whether ORG (hereon referred to as "ORG") operated exclusively for exempt purposes within the meaning of IRC §501(c)(3)

**FACTS**

ORG filed for recognition of tax exempt status and received determination as an organization exempt under IRC §501(c)(3) on May 22, 19XX.

The advance ruling period for ORG began on September 14, 19XX and ended on December 31, 19XX. Letter 1046 was issued to ORG on December 16, 19XX requesting that the organization submit Form 8734 *Support Schedule for Advance Ruling Period* to show that it qualified for exemption as a publicly supported organization under section 509(a)(1) or section 509(a)(2). Letter 1046 provided that the organization would be considered a private foundation on the first day of its first tax year for purposes of section 507(d) and 4940 of the Code if it did not meet the requirements under section 509(a)(1) or section 509(a)(2). Because ORG did not submit Form 8734, it was determined that ORG did not take all reasonable steps to secure the determination that it requested. The organization was, therefore, classified as a private foundation.

ORG has not filed Form 990 or Form 990-PF since inception. As an organization exempt under IRC §501(c)(3), the organization is not required to file Form 990 if its annual revenue does not exceed \$. However, private foundations must file Form 990-PF regardless of income. To date, ORG has not filed any delinquent returns as requested.

The IRS established previous contact with Executive Director, executive director of ORG, regarding the completion of Form 13771 *Credit Counseling and Form 990-PF Questionnaire*. The filing of Form 990-PF was also requested at the time. Form 13711 was completed, signed, and dated on November 30, 20XX. In a separate letter dated November 30, 20XX, Executive Director provided that ORG intended to resume operations as early as January of 20XX. At the close of the inquiry, Form 990-PF had not been secured. The organization was to file Form 990-PF within thirty days.

Correspondence for the current examination was also conducted with Executive Director. Executive Director provided that as executive director, he was considered an officer of the organization. Executive Director further provided that the organization has been inactive since 20XX. An exact date of inactivity could not be determined at this time. Executive Director explained that the organization became inactive because it did not generate sufficient income to pay for salaries and other expenses. Executive Director provided that the organization did not have any remaining assets when it became inactive in 20XX.

During the course of the current examination, Executive Director claimed that he was in the process of regrouping the Board of Directors and that he was searching for proper credit counseling training for ORG. Executive Director provided that ORG intended to resume operations as early as January 1, 20XX.

**LAW & ARGUMENT**

IRC §501(a) of the Internal Revenue Code provides that an organization described in §501(c)(3) is exempt from income tax. Section 501(c)(3) of the Code exempts from federal income tax corporations organized and operated exclusively for charitable, educational, and other purposes, provided that no part of the net earnings inure to the benefit of any private shareholder or individual.

Form <b>886-A</b> (Rev. January 19XX)	<b>EXPLANATION OF ITEMS</b>		Schedule number or exhibit
Name of Taxpayer	Tax Identification Number	Year/Period ended	
ORG	EIN	December 31, 20XX	

Treas. Reg. § 1.501(c)(3)-1(a)(1) provides that, in order to be exempt as an organization described in § 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Treas. Reg. § 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of such exempt purposes specified in § 501(c)(3).

IRC §6033(a)(1) requires that an organization exempt under section 501(a) file an annual return, specifically stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms and regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rule and regulations as the Secretary may from time to time prescribe.

Section 1.6033-2(h)(2) of the Income Tax Regulations provides, in part, that every organization which is exempt from tax shall submit such additional information as may be required by the Internal Revenue Service for the purposes of inquiring into its exempt status.

Revenue Ruling 59-95 provides that a failure to file required information return or comply with the provision of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of an exempt status.

#### **GOVERNMENT'S POSITION**

Continuous efforts have been made since October of 20XX to obtain information from ORG in order to verify that the organization intended to resume operations. Upon initial contact, Executive Director agreed to submit a plan of action, as well as the delinquent Forms 990-PF for the current and all subsequent years in order to show compliance.

In order for the organization to be considered an exempt organization under IRC §501(c)(3), it is required to be organized and operated for exempt purposes. ORG has failed to meet the operational test since 20XX when it became inactive. The organization does not operate for the educational purposes in which it initially received exemption. Although ORG has expressed interest in resuming operations, it has not provided any concrete evidence in support of its intentions. Accordingly, ORG does not qualify as an organization described in IRC §501(c)(3) because it is not operating exclusively for charitable or educational purposes.

Furthermore, ORG continues to fail to meet the filing requirements under section 6033 of the Code. Since inception, ORG has not filed a single return to show compliance with federal regulations. ORG has ignored previous and current attempts made by the IRS to secure the Forms 990-PF. Per Rev. Rul. 59-95, the organization has not observed the conditions required for the continuation of its exempt status.

Therefore, it has been determined that multiple attempts have been made to bring ORG into compliance. ORG has not offered any reasonable indication that it intends to resume operations or that it intends to observe federal regulations before or after it resumes operations. Therefore, revocation is proposed as of January 1, 20XX.

#### **TAXPAYER'S POSITION**

The taxpayer's position is not available. The organization will be allowed 30 days to respond.

#### **CONCLUSION**

ORG's tax exempt status under IRC §501(c)(3) should be revoked, effective January 1, 20XX.